

AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 869

Introduced by Assembly Member Keeley

**(Coauthors: Assembly Members Cedillo, Firebaugh,
Gallegos, Honda, Longville, Reyes, Romero, Soto,
Torlakson, Villaraigosa, Washington, Wesson, Wildman,
and Wright)**

(Coauthor: Senator Hughes)

February 25, 1999

An act to add Article 19 (commencing with Section 1115) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 869, as amended, Keeley. Community Reinvestment Act.

Existing law governing insurance prescribes certain authorized investments that can be made by insurers.

This bill would enact the Community Reinvestment Act to establish a continuing and affirmative obligation for insurers to make economically targeted investments in low-income or very low-income communities that benefit low-income or very low-income individuals and have a positive impact on those communities. It would require the Insurance Commissioner to collect and compile information and data relating to the performance of insurers in this regard, to take certain remedial action if an insurer fails to adequately

comply with these provisions, and to adopt rules implementing these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Insurers are a vital and integral part of the
4 California economy. Insurers are one of the largest
5 institutional sources of capital invested or available for
6 investment in California businesses and affordable
7 housing developments.

8 (b) Insurers' investable assets are derived, in part,
9 from premiums paid by California policyholders and the
10 manner in which those assets are invested affects the
11 prosperity of California's communities.

12 (c) Pursuant to the federal Community Reinvestment
13 Act, federally regulated financial institutions have a
14 continuing and affirmative obligation to meet the credit
15 needs of the communities they are chartered to serve,
16 including urban and rural low-income areas. The federal
17 act has had a positive impact on low-income communities
18 in California by creating jobs, increasing business and real
19 estate lending, developing affordable housing units, and
20 increasing access to financial products and services in
21 underserved markets. Unlike financial institutions,
22 insurers have no similar obligation to ensure that their
23 investments promote the overall growth and
24 development of low-income communities.

25 (d) There are safe and sound economically targeted
26 investments available to insurers in low-income
27 communities that offer competitive rates of return and
28 that would not create an undue risk to shareholders.
29 These investments represent unmet or overlooked
30 business opportunities in California.

31 (e) Investment in low-income communities in
32 California has been insufficient, resulting in a low level of



1 economic vitality, substandard housing, and a decline in
2 the quality of life in many rural and urban areas.

3 (f) Investment by insurance companies is an
4 important source of capital for California. There is in the
5 Department of Insurance the California Organized
6 Investment Network (COIN) that facilitates investments
7 by insurers in California's low-income communities. The
8 purpose of COIN is to increase the level of insurance
9 industry capital committed to safe and sound community
10 investments that benefit California's low-income urban
11 and rural communities. Despite COIN's best efforts there
12 has been an insufficient level of economically targeted
13 investment in California.

14 (g) The creation of IMPACT Capital, a for-profit
15 insurance industry investment intermediary that
16 proposes to make community investments in California,
17 is a positive development that has the potential for
18 increasing insurer economically targeted investments.
19 IMPACT Capital's investments to date, however, relative
20 to the amount of premiums collected annually in
21 California, are insufficient. Further, IMPACT Capital
22 only represents a small portion of the entire industry
23 licensed to do business in California and there is no
24 assurance that IMPACT Capital will increase its
25 membership or investment portfolio.

26 (h) It is, therefore, the intent of the Legislature to
27 establish the continuing and affirmative obligation for
28 insurers doing business in California to make safe and
29 sound community development investments in
30 low-income communities that benefit low-income
31 individuals and have a positive impact on those
32 communities. The investments should include
33 investments intended to create or retain jobs or to create
34 new or expanded business opportunities.

35 It is further the intent of the Legislature to require the
36 Insurance Commissioner to collect data on insurers'
37 community development investments in low-income
38 communities.

SEC. 2. Article 19 (commencing with Section 1115) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 19. Community Reinvestment Act

1115. This article may be cited as the Community Reinvestment Act.

1115.1. As used in this article, the following definitions apply unless the context requires otherwise:

(a) “Affordable housing” means housing that meets the cost limitations contained in Sections 50052.5 and 50053 of the Health and Safety Code.

(b) “Community development credit union” means a credit union that has as a basic purpose the stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves, a majority of which shall be low-income or very low-income residents.

(c) “Community development loan” means a line of credit, commitment, or letter of credit for affordable housing and economic development not being met by the private market.

(d) “Community development financial institution” means a person other than an individual that does all of the following:

(1) Has a primary mission of promoting community development.

(2) Serves an investment area or targeted population.

(3) Provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate.

(4) Maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted populations.

(5) Is not an agency or instrumentality of the United States, or of any state or political subdivision of a state.

(e) “Economically targeted investments” means investments by insurers in low-income or very low-income communities that benefit low-income or very

1 low-income individuals and have a positive impact on
2 those communities. Economically targeted investments
3 may be made directly by insurers, through
4 intermediaries, or through partnerships, consortia, or
5 other entities organized by insurers or other financial
6 institutions. Those investments include, but are not
7 limited to, the following:

8 (1) Affordable community housing, complying with at
9 least one of the following:

10 (A) Affordable rental housing, which is a program or
11 project producing, providing, or preserving rental
12 housing at a housing expense affordable to households at
13 or below 60 percent of the area median income, located
14 anywhere in the state. Affordability controls shall be
15 secured for a minimum term of 30 years by regulatory
16 agreement, ground lease, loan agreement, or any other
17 enforceable regulatory control.

18 (B) Affordable ownership housing, which is a program
19 or project providing affordable home ownership under
20 either of the following circumstances:

21 (i) At a housing expense affordable to households at or
22 below 100 percent of the area median income, adjusted
23 for family size, for housing units located anywhere in the
24 state.

25 (ii) At a housing expense affordable to households at
26 or below 120 percent of the area median income, adjusted
27 for household size, for housing units located in
28 low-income census tracts.

29 Ownership units shall carry enforceable resale controls
30 that restrict sales of the units to households not exceeding
31 the targeted income levels specified in this paragraph for
32 a minimum of five years if public funds are involved in
33 financing the unit or if land use regulations prescribing
34 income restrictions apply to the units.

35 (C) Mixed income and mixed use development, which
36 is a program or project for mixed income housing or
37 mixed use development that includes a residential
38 component in addition to other uses, provided that the
39 program or project produces substantial neighborhood
40 revitalization benefits and is located either in a

1 low-income census tract or in a rural community.
2 Substantial neighborhood revitalization benefits may be
3 demonstrated by the provision of needed social services
4 within the neighborhood, the provision of retail and office
5 space of benefit to neighborhood residents, or any other
6 documented benefit.

7 (2) Community economic development programs or
8 projects that provide demonstrated economic
9 development benefits to low-income and rural
10 communities, and to residents, businesses, and nonprofit
11 community service organizations located in those
12 communities, and that comply with both of the following:

13 (A) Geographic targeting of economic development
14 investments through either of the following:

15 (i) Commercial real estate investments for
16 developments located in low-income census tracts or in
17 rural communities.

18 (ii) Business investments in a business other than
19 commercial real estate development and with a business
20 address located in a low-income census tract or rural
21 community. The business address may include
22 headquarters operations of the business, or a branch,
23 plant, office, franchise, or other operations of the
24 business, as long as the program or project can
25 demonstrate a link between the business address and its
26 location within a low-income census tract or a rural
27 community.

28 (B) Delivery of community economic development
29 programs or projects that shall be accomplished through
30 one of the following mechanisms:

31 (i) Community development lenders and investors,
32 including community development financial institutions,
33 community loan funds, financial intermediaries,
34 minority-owned financial institutions, regulated financial
35 institutions with assets of less than one billion dollars
36 (\$1,000,000,000), community credit unions, loan or
37 investment funds operated by nonprofit organizations or
38 government agencies, community development equity
39 funds, and business industrial development corporations.

40 (ii) Conventional lenders and investors.

1 (iii) Local or state government agencies active in
2 economic development financing.

3 (iv) A person or entity proposing a program or project
4 specific to a particular enterprise or development.

5 (f) “Low-income” means, in the case of a person, an
6 individual income, or in the case of a geographic area, a
7 median family income, that is at least 50 percent, but no
8 more than 80 percent, of the adjusted area median
9 income, with adjustments for family size and revised
10 annually.

11 (g) “Microenterprise” means a commercial enterprise
12 with 10 or fewer employees, one or more of whom owns
13 the enterprise.

14 (h) “Rural community” means an area that on January
15 1 of any calendar year satisfies any of the following
16 criteria:

17 (1) The area is eligible for financing from the United
18 States Farmers Home Administration under its Section
19 515 program, or any successor program.

20 (2) The area is located in a nonmetropolitan area as
21 defined in Section 50090 of the Health and Safety Code.

22 (3) The area is an incorporated city having a
23 population of 40,000 or less as identified in the most recent
24 Report E published by the Demographic Research Unit
25 of the Department of Finance or is located in the
26 unincorporated area which adjoins that city, provided
27 that the city and its adjoining unincorporated area are not
28 designated as an urbanized area by the United States
29 Census Bureau and are not part of that urbanized area.
30 Any inconsistencies between areas eligible under
31 subdivisions (a) and (b), and this subdivision, shall be
32 resolved in favor of considering the area a rural area.

33 (i) “Small business” means a commercial enterprise
34 with gross annual revenues of one million dollars
35 (\$1,000,000) or less, or in the case of a geographic area, a
36 median family income, that is less than 50 percent of the
37 adjusted area median income, with adjustments for
38 family size and revised annually.

39 1115.2. Insurers admitted in the state have a
40 continuing and affirmative obligation to make

1 economically targeted investments in low-income or very
2 low-income communities as defined in subdivision (e)
3 Section 1115.1.

4 ~~1115.3. For the purposes of this article economically~~
5 ~~targeted investments as defined in subdivision (e) of~~
6 ~~Section 1115.1 are exempt from risk-based capital~~
7 ~~requirements, cash-flow testing requirements and~~
8 ~~mandatory reserve requirements, including, but not~~
9 ~~limited to, asset valuation reserves and interest~~
10 ~~maintenance reserves.~~

11 *1115.3. The commissioner shall recognize*
12 *economically targeted investments, as defined in*
13 *subdivision (e) of Section 1115.1, made by insurers as*
14 *admitted assets.*

15 1115.4. The commissioner shall collect and compile
16 information and data relating to the performance of
17 insurers in making community development investments
18 in the state. Each admitted insurer shall include as part
19 of its annual statement an economically targeted
20 investment report including the following information:
21 the amount of investment, the type of investment tool
22 used, the benefit to the low-income or very low-income
23 community and individuals, and the location by address
24 and census tract of the investment. All data provided to
25 the commissioner is available to the public.

26 1115.5. Whenever the commissioner has reason to
27 believe that an admitted insurer has failed to adequately
28 make economically targeted investments in accordance
29 with this article, he or she shall issue an order to show
30 cause containing a statement of the charges, and a notice
31 of hearing to be held at a time and place fixed therein
32 which shall not be less than 30 days after service thereof,
33 for the purpose of determining whether the
34 commissioner should issue an order to cease and desist
35 from further noncompliance with this article. The
36 hearing shall be conducted in accordance with the
37 Administrative Procedure Act (Chapter 5 (commencing
38 with Section 11500) of Part 1 of Division 3 of Title 2 of the
39 Government Code) or by an administrative law judge
40 appointed by the commissioner.

1 1115.6. Any interested person may file a petition with
2 the commissioner seeking the issuance of an order to
3 show cause directed at an admitted insurer, for the
4 reasons set forth in Section 1115.5.

5 ~~1115.7. Upon a finding of noncompliance, the~~
6 ~~commissioner may use the powers described in Article 1~~
7 ~~(commencing with Section 12919) of Chapter 2 of~~
8 ~~Division 3 to bring the insurer in compliance with this~~

9 *1115.7. Upon issuance of an order to cease and desist*
10 *from further noncompliance with this article, the*
11 *commissioner may use the powers described in Article*
12 *14.5 (commencing with Section 1065.1) to bring the*
13 *insurer in compliance with this article.*

14 1115.8. Prior to January 1, 2001, the commissioner may
15 issue bulletins adopting guidelines for the purpose of
16 implementing this article. The commissioner shall adopt
17 rules by January 1, 2001, to implement this article. The
18 bulletins and rules may specify or define additional
19 economically targeted investments.

